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To: Commissioner for Patents for Examiner James A. Reagan Group Art Unit 3621	Facsimile No. 571/273-8300
From: Jennifer Pilcher for Stephanie Fay Legal Assistant to Francis Lammes	No. of Pages Including Cover Sheet: 42
<p>Enclosed herewith:</p> <ul style="list-style-type: none"> • Transmittal; • Response to Notice of Non-Compliant Appeal Brief; • Supplemental Appeal Brief; • Copy of Notice of Non-Compliant Appeal Brief. 	
<p>Re: Application Serial No. 09/788,059 Attorney Docket No. YOR920000804US1</p>	
<p>Date: Monday, September 18, 2006</p>	
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bantz et al.

Serial No.: 09/788,059

Filed: February 16, 2001

For: Apparatus and Methods for
Providing an Estimated Time of
Arrival Based Marketplace

35526

PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

§ Group Art Unit: 3621

§

§ Examiner: Reagan, James A.

§

§ Attorney Docket No.: YOR920000804US1

§

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facsimile to the Commissioner for Patents, P.O. Box 1450,
Alexandria, VA 22313-1450, facsimile number (571) 273-8300
on September 18, 2006.By: 

Jennifer Pitcher

TRANSMITTALCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

ENCLOSED HEREWITH:

- Response to Notice of Non-Compliant Appeal Brief;
- Supplemental Appeal Brief; and
- Copy of Notice of Non-Compliant Appeal Brief.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 50-0510. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 50-0510.

Respectfully submitted,



Francis Lammes

Registration No. 55,353

AGENT FOR APPLICANTS

Duke W. Yee

Registration No. 34,285

ATTORNEY FOR APPLICANTS

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: **Bantz et al.**

Serial No.: **09/788,059**

Filed: **February 16, 2001**

For: **Apparatus and Methods for
Providing an Estimated Time of Arrival
Based Marketplace**

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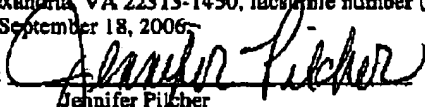
Group Art Unit: **3621**

Examiner: **Reagan, James A.**

Attorney Docket No.: **YOR920000804US1**

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on September 18, 2006.
By: 
Jennifer Pilcher

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Non-Compliant Appeal Brief was received by Applicant stating that the appeal brief filed on June 20, 2006 is considered non-compliant because "A concise explanation of the subject matter defined in each of the independent claims involved in the appeal is required. The explanation must refer to the specification by page and line number and to the drawings, if any, by reference characters for each independent claim involved in the appeal and for each dependent claim argued separately." A copy of the Notice of Non-Compliant Appeal Brief is attached hereto.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 50-0510. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 50-0510.

In response to the Notification of Non-Compliant Appeal Brief dated August 30, 2006, please reconsider the holding of non-compliance as follows:

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REMARKS

In the Notification of Non-Compliant Appeal Brief, the Appeal Brief filed on August 9, 2006, was held defective because the summary of claimed subject matter must include a concise explanation of each independent claim involved in the appeal. The brief fails to separately map each independent claim (1, 12, and 23) to the specification by page and line number and to the drawings, if any.

In order to address the Examiner's concerns, a Supplemental Appeal Brief is submitted herewith. It is respectfully submitted that the Supplemental Appeal Brief filed herewith is in compliance with 37 C.F.R. § 41.37. Appellant respectfully requests that the Supplemental Appeal Brief be entered.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Date: September 18, 2006

Respectfully submitted,



Francis Lammes

Registration No. 55,353

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,059	02/16/2001	David Frederick Bantz	YOR920000804US1	5389
35526	7590	08/30/2006		
DUKE. W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380				
			EXAMINER	
			ART UNIT	PAPER NUMBER

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

CLIENT DOCKET INFORMATION
Client Name: YOR920000804US1
File No.:

DATE: 09.20.06 ACTION DOCKETED: Response to Notice of Non-Compliance
Appeal Brief
Docketed By: mg Date: 09.08.06
Checked By: dur Date: 09.08.06
Attorney Initials: J Date: 09.12.06

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 08/788,059	Applicant(s) BANTZ ET AL	
	Examiner James A. Reagan	Art Unit 3821	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 20 June 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

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Application/Control Number: 09/788,059
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DETAILED ACTION

Status of Claims

1. This action is in response to the Appeal Brief filed on 20 June 2006.

Rules of Practice Before the BPAI

2. Content and format of the appeal brief (§ 41.37)

- One copy of the brief is required rather than three copies consistent with the implementation of IFW.
- The brief is required to be filed within two months from the date of filing of the notice of appeal.
- The time period is extendable under § 1.136 for patent applications and § 1.550(c) for ex parte reexamination proceedings. See § 41.37(d).
- The brief can no longer be filed within the time period for reply to the action from which the appeal was taken.

3. The brief must contain the following items (§ 41.37(e)):

Real party in interest (similar to former § 1.192). A statement identifying by name the real party in interest even if the party named in the caption of the brief is the real party in interest.

Related appeals and interferences (similar to former § 1.192). Identification of all other prior and pending appeals, interferences or judicial proceedings which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision.

Application/Control Number: 09/788,059
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Status of claims (similar to former § 1.192). The status of all the claims in the proceeding (e.g. rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of the appealed claims.

Status of amendments (same as former § 1.192). A statement of the status of any amendment filed subsequent to final rejection.

Summary of claimed subject matter (replacing "summary of invention").

- A concise explanation of the subject matter defined in each of the independent claims involved in the appeal,
- Must refer to the specification by page and line number, and to the drawing, if any, by reference characters for each independent claim involved in the appeal and for each dependent claim argued separately,
- Every means plus function and step plus function must be identified, and
- The structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Grounds of rejection to be reviewed on appeal (replacing "issues for review" and "grouping of claims").

- Example: Claims 1 to 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. X

Argument (has been revised).

- A separate heading is required for each ground of rejection.
- Any claim(s) argued separately should be placed under a subheading.

Application/Control Number: 08/788,059
Art Unit: 3621

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- A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.
- When multiple claims subject to the same ground of rejection are argued as a group, the Board may select a single claim from the group to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone.

Claims appendix (similar to former § 1.192).

- A copy of the claims involved in the appeal.

Evidence appendix (new)

- Copies of any evidence entered and relied upon in the appeal.

Related proceedings appendix (new)

- Copies of decisions rendered by a court or the Board in any proceeding identified in the related appeals and interferences section.

4. The examiner will review the brief to determine whether the items required by § 41.37(c) are present. If a brief does not comply with the requirements set forth in § 41.37, the appellant will be notified of the reasons for noncompliance. Appellant will be given 1 month or 30 days from the mailing of the notification of non-compliance, whichever is longer, to file an amended brief.
5. In the present case, the currently filed appeal brief is missing a proper Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal is required. The explanation must refer to the specification by page and line number, and to the drawing, if any, by reference characters for each independent claim involved in the appeal and for each dependent claim argued separately.

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Art Unit: 3821

Page 5

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **James A. Reagan** whose telephone number is 571.272.8710. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at 571.272.8712. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

571-273-8300 [Official communications, After Final communications labeled "Box AF"]

571-273-8300 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

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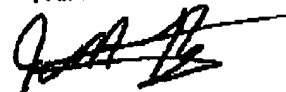
JAMES A. REAGAN

Primary Examiner

Art Unit 3821

22 August 2008

**JAMES A. REAGAN
PRIMARY EXAMINER**



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Docket No. YOR920000804US1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bantz et al.

Serial No. 09/788,059

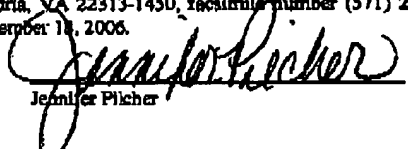
Filed: February 16, 2001

For: Apparatus and Methods for
Providing an Estimated Time of
Arrival Based Marketplace

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§ Group Art Unit: 3621
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§ Examiner: Reagan, James A.
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SUPPLEMENTAL APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on May 1, 2006.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 50-0510. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 50-0510.

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Bantz et al. - 09/788,059

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation.

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RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

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STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-5, 8-16, 19-27, and 30-33.

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: 6, 7, 17, 18, 28, and 29.
2. Claims withdrawn from consideration but not canceled: NONE.
3. Claims pending: 1-5, 8-16, 19-27, and 30-33.
4. Claims allowed: NONE.
5. Claims rejected: 1-5, 8-16, 19-27, and 30-33.
6. Claims objected to: NONE.

C. CLAIMS ON APPEAL

The claims on appeal are: 1-5, 8-16, 19-27, and 30-33.

STATUS OF AMENDMENTS

There are no amendments after the final rejection.

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SUMMARY OF CLAIMED SUBJECT MATTER***Independent claim 1:***

The present invention provides a method of providing service provider information to a client device in a distributed computer system. (Specification, page 10, lines 22-24) The present invention obtains bids from a plurality of service providers for providing a service. (Specification, page 10, line 24, to page 12, line 22) The present invention obtains route information from a route determination provider based on a first location associated with the client device and a second location associated with a corresponding service provider in response to obtaining the bids. (Specification, page 12, line 23, to page 13, line 13) The present invention obtains historical travel data from a historical database. (Specification, page 12, line 23, to page 13, line 13) The present invention calculates an estimated time of travel for each of the plurality of service providers based on the route information and the historical travel data. (Specification, page 13, lines 14-28) The present invention electronically determines an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers. (Specification, page 13, line 28, to page 14, line 13) The present invention provides the bids from the plurality of service providers and the estimated time of completion for the service for each of the plurality of service providers to the client device. (Specification, page 14, line 14, to page 15, line 12)

Independent claim 12:

The present invention provides an apparatus for providing service provider information to a client device in a distributed computer system. (Specification, page 10, lines 22-24) The present invention provides a first interface which obtains bids from a plurality of service providers for providing a service. (Specification, page 10, line 24, to page 12, line 22) The present invention provides a processor which, responsive to obtaining the bids, obtains route information from a route determination provider based on a first location associated with the client device and a second location associated with a corresponding service provider. (Specification, page 12, line 23, to page 13, line 13) The present invention provides for a

(Supplemental Appeal Brief Page 6 of 32)
Bantz et al. - 09/788,059

processor that obtains historical travel data from a historical database. (Specification, page 12, line 23, to page 13, line 13) The present invention provides for a processor that calculates an estimated time of travel for each of the plurality of service providers based on the route information and the historical travel data. (Specification, page 13, lines 14-28) The present invention provides for a processor that determines an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers. (Specification, page 13, line 28, to page 14, line 13) The present invention provides a second interface which provides the bids from the plurality of service providers and the estimated time of completion for the service for each of the plurality of service providers to the client device. (Specification, page 14, line 14, to page 15, line 12)

The apparatus recited in claim 12, as well as dependent claims 13-16 and 19-22, may comprise interfaces, service providers, and a processor, such as ETA based marketplace provider 114, route determination provider 116, service providers 108-112 of Figure 1 and processors 202 or 204 of Figure 2 performing the steps described in the specification at page 10, line 22, to page 15, line 20 and page 16, line 22, to page 17, line 6 and Figures 4 and 6, or equivalent.

Independent claim 23:

The present invention provides a computer program product in a computer readable medium for providing service provider information to a service consumer in a distributed computer system. (Specification, page 10, lines 22-24) The present invention provides instructions for obtaining bids from a plurality of service providers for providing a service. (Specification, page 10, line 24, to page 12, line 22) The present invention provides instructions, responsive to obtaining the bids, for obtaining route information from a route determination provider based on a first location associated with the client device and a second location associated with a corresponding service provider. (Specification, page 12, line 23, to page 13, line 13) The present invention provides instructions for obtaining historical travel data from a historical database. (Specification, page 12, line 23, to page 13, line 13) The present invention provides instructions for calculating an estimated time of travel for each of the plurality of

service providers based on the route information and the historical travel data. (Specification, page 13, lines 14-28) The present invention provides instructions for determining an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers. (Specification, page 13, line 28, to page 14, line 13) The present invention provides instructions for providing the bids from the plurality of service providers and the estimated time of completion for the service for each of the plurality of service providers to a service consumer. (Specification, page 14, line 14, to page 15, line 12)

A person having ordinary skill in the art would be able to derive computer instructions on a computer readable medium as recited in claim 23, as well as dependent claims 24-27 and 30-33, given Figures 4 and 6 and the corresponding description at page 10, line 22, to page 15, line 20 and page 16, line 22, to page 17, line 6, without undue experimentation.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL**A. GROUND OF REJECTION 1 (Claims 1-5, 8-16, 19-27, and 30-33)**

Whether claims 1-5, 8-16, 19-27, and 30-33 are obvious under 35 U.S.C. § 103(a) over *Vashistha et al.* (U.S. Pub. No. 2001/0051913 A1) in view of *Goino* (U.S. Pub. No. 2001/0056396 A1).

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ARGUMENT

Claim 1 is a representative of the group and reads as follows:

1. A method of providing service provider information to a client device in a distributed computer system, comprising:
 - obtaining bids from a plurality of service providers for providing a service;
 - responsive to obtaining the bids, obtaining route information from a route determination provider based on a first location associated with the client device and a second location associated with a corresponding service provider;
 - obtaining historical travel data from a historical database;
 - calculating an estimated time of travel for each of the plurality of service providers based on the route information and the historical travel data;
 - electronically determining an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers; and
 - providing the bids from the plurality of service providers and the estimated time of completion for the service for each of the plurality of service providers to the client device.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). In this case, the *Vashistha* and *Goino* do not teach or suggest all of the features asserted to be present by the Examiner. Also, the cited references do not provide any teaching, suggestion, or incentive to combine or modify the teachings in the manner necessary to reach the presently claimed invention.

Vashistha and *Goino*, taken alone or in combination, fail to teach or suggest an electronically determining an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers.

The Examiner alleges that *Vashistha* teaches determining an estimated time of completion for a service for each of a plurality of service providers in the following section:

[0081] Accordingly, outsourcing system 900 can be implemented to enable buyers and IT providers to confer and agree in a very efficient, neutral and intelligent manner for the planning, outsourcing, and/or procuring of information technology projects and services. Further, instead of the typical six-month period for conventional outsourcing methods, outsourcing system 900 can be conducted in significantly less time, for example, as little as three weeks. Accordingly, provider 904 is ready to initiate work on the IT project. However, it may be desirable for

(Supplemental Appeal Brief Page 10 of 32)
Bantz et al. - 09/788,059

buyer 902 to have a mechanism for overseeing the IT project, including any milestones and deadlines. In accordance with another aspect of the present invention, a system and method for outsourcing IT projects and services can also be configured for delivering and/or managing the IT projects and services.

[0082] In accordance with this aspect of the present invention, a project administration method and system can be provided to facilitate the delivering and/or managing the IT projects and services. In accordance with an exemplary embodiment, the project administration method and system can be configured to enable the buyer and the provider to oversee the delivery of the IT project, such as by using a browser-based application, to provide a secure workspace where project teams can suitably collaborate, conduct online conversations, such as with discussion module 922, track project milestones, monitor service levels, resolve issues, solicit feedback and/or authorize payment.

[0083] In addition, in accordance with another exemplary embodiment, the project administration method and system can enable the buyers and providers to administer the project entirely online, from anywhere in the world. This can include the ability to evaluate and track project milestones, and to monitor, update and analyze project performance metrics with detailed tables and graphs. In addition, the project administration system can be configured to submit and track changes to milestone dates, any failures to meet threshold metrics criteria, and any critical issues related to project completion. Moreover, the project administration system can be configured to review a content-based weekly or other periodic report that can provide an overview of the status of the project, and can provide various features such as a project milestones table, a performance metrics table and graphs, the access to all issues that have been raised, the ability to interact via online conferences that are archived for future reference, and the ability to facilitate financial transactions tied to completion of project milestones.

(*Vashistha*, paragraphs [0081]-[0083])

As can be seen in these cited sections, *Vashistha* teach an outsourcing system and a project administration system. The administration may be made online to track various parameters for a project. Nowhere, however do these paragraphs teach or suggest electronically determining an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers, as recited in claim 1.

[0084] With reference to FIG. 5, an exemplary project administration system 500 is illustrated. In accordance with this embodiment, project administration system 500 suitably comprises a project milestones module 502, a performance metrics module 506, a periodic update module 508, a discussion module 514, an update

performance module 520, a milestone payment module 522, and a project end module 526. Project milestones module 502 comprises a table containing various milestones, e.g., various events, tasks, or steps required or otherwise to be performed for completion of the project, and which can be selected by either a buyer 516, a provider 510, or both. Project milestones module 502 is suitably configured for tracking the percentage of completion of each project, including the percentage of completion for event, task or step. Performance metrics module 506 is configured for tracking the performance criteria along the path of a project, e.g., from module 502 through module 526. As a result, issues deemed important to buyer 516 or provider 510 can be suitably tracked and archived, e.g., stored within project database 504, for future reference. In accordance with another exemplary embodiment, a project set-up consulting module 528 can be included to facilitate the tracking of project milestones and performance metrics.

[0085] As the project progresses, the milestones and performance metrics can be periodically updated within module 508. Update module 508 can be configured for various update periods, such as daily, weekly, monthly or any other period. In the exemplary embodiment, update module 508 is configured for a weekly update. Upon completion of the updating process, various report configurations can be provided to buyer 516 and provider 510.

[0086] For updating of the project, a provider 510 can suitably update a project with a project status 512 provided to update module 508. For confirmation, a buyer 516 can suitably review project status 512 and comment and discuss with provider 510 in discussion module 514. Once buyer 516 approves and confirms the project update status, buyer 516 can provide a status confirmation 518 to update performance module 520. Update performance module 520 is configured to update the project milestones and performance metrics provided within modules 502 and 506. Upon receiving status confirmation 518, update performance module 520 can suitably provide updated performance criteria to update module 508 for reporting to provider 510 and buyer 516. To facilitate resolution of any issues or disputes that may occur that are not resolved within discussion module 514, in accordance with another exemplary embodiment, project administration system 500 can also include an issue resolution consulting module 530 configured for providing consulting assistance to buyer 516 and provider team 510.

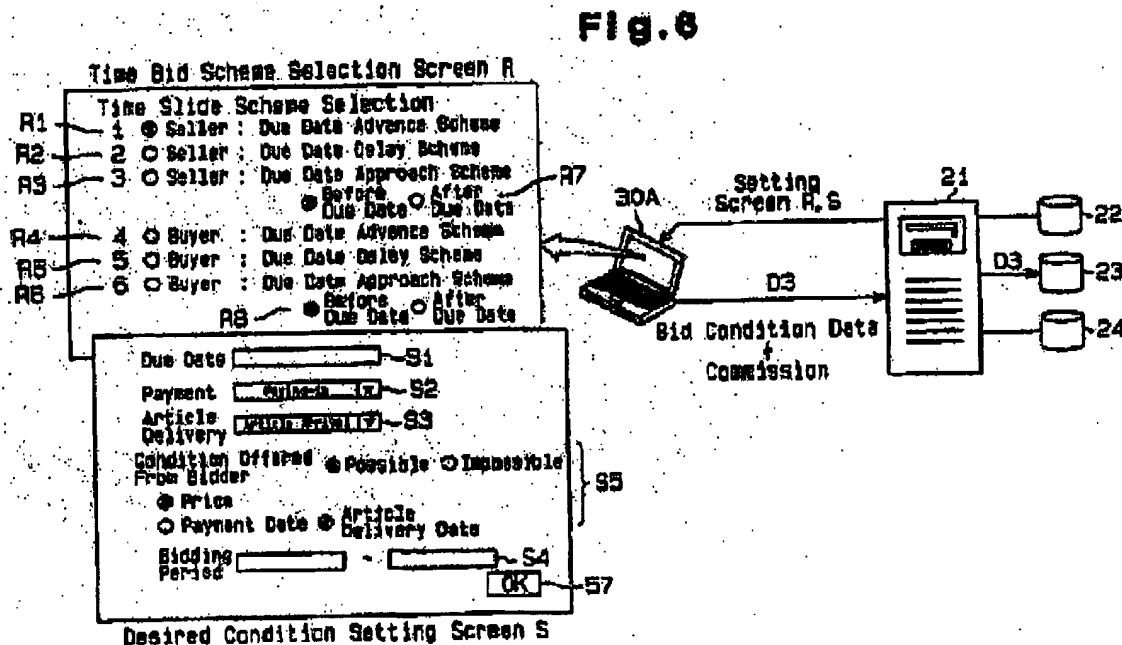
[0087] As each milestone is reached or completed, buyer 516 has an option to provide or release a payment 524 to provider 510 through use of milestone payment module 522. Milestone payment module 522 can comprise any payment distribution system. In an exemplary embodiment, milestone payment module 522 can be configured for electronic payment authorization to provider 510.

(Vashistha, paragraphs [0084]-[0087])

These cited paragraphs of *Vashistha* disclose a project administration system with a number of features for project management. The *Vashistha* system includes features, such as a module for updating information about the project, providing status information, and options for users when a milestone is reached or completed. Nowhere, however do these paragraphs teach or suggest electronically determining an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers, as recited in claim 1.

As can be see, the cited portion of *Vashistha* teaches tracing the progress of a project after it has been procured and after it is being completed. Thus, *Vashistha* does not teach or suggest estimating a time of completion of a service responsive to bids being obtained.

Furthermore, the Examiner acknowledges that *Vashistiha* does not teach or suggest that each bid includes an estimated time to perform the service and the steps of obtaining route information from a route determination provider, obtaining historical travel data, estimating a time of travel, or adding an estimated time of travel to an estimated time of completion of the service. The Examiner alleges, however, that *Goino* teaches these features in Figure 6, 14, 17-20 and 30, there related text, and other pertinent passages, which are shown as follows:



(Figure 6)

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[0111] As illustrated in FIG. 6, the time bid scheme selection screen R is provided with six options R1 to R6 for selecting a particular time slide scheme. The options R1 to R6 provide a "due date advance scheme", a "due date delay 30 scheme", and a "due data approach scheme" for a seller and a buyer, respectively. In addition, the "due date approach scheme" is provided with options R7, R8 for selecting either "before due date" or "after due date".

(Goino, paragraph [0111])

In Figure 6 and the related description, Goino describes a time bidding scheme. Options are described for a "due date advance scheme", a "due date delay 30 scheme", and a "due data approach scheme" for a seller and a buyer. Nowhere, however do these paragraphs teach or suggest that each bid includes an estimated time to perform the service and the steps of obtaining route information from a route determination provider, obtaining historical travel data, estimating a time of travel, or adding an estimated time of travel to an estimated time of completion of the service, as recited in claim 1.

Fig.14

List Screen XA

List XA1					
NO	Code Number	Trading Date	Condition offered by bidder		
			Price	Article delivery date	
1	00080	20 June	xxxxx Paying-in	20 June	Shipment
2	00079	20 June	xxxxx Paying-in	20 June	Shipment
3	00078	20 June	xxxxx Paying-in	20 June	Delivery
4	00077	20 June	xxxxx Paying-in	25 June	Shipment
5	00076	20 June	xxxxx Paying-in	20 June	Delivery
6	00075	20 June	xxxxx Paying-in	1 July	Shipment
7	00074	19 June	xxxxx Paying-in	19 June	Shipment
.
.
.

Select successful bidder
NO. XA2

OK 62

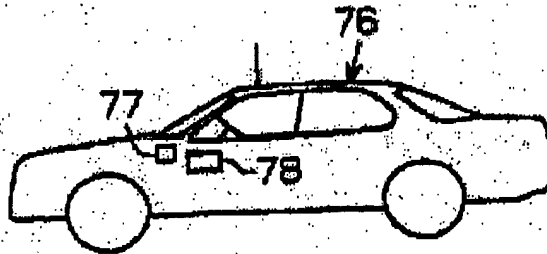
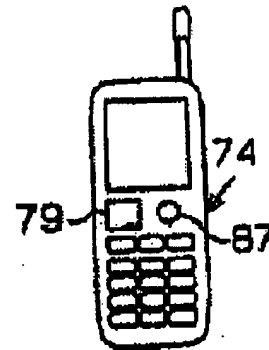
(Figure 14)

[0151] Alternatively, instead of the method of determining a successful bidder, conducted by the server 21, a trading partner may be determined in the following manner. For example, the server 21 lists information offered by bidders as it is, or creates a priority list by narrowing down successful bidder candidates at higher ranks, for example, to a limited number of bidders specified by the client based on the information offered by the bidders, and transmits the list to the terminal 30A of the client. Accordingly, a list screen XA as illustrated in FIG. 14 is displayed on the terminal 30A of the client. The screen XA is provided with a list XA1, an entry field XA2 for selecting a successful bidder, and an OK button 62. The list XA1 indicates a priority number, a code number, a trading date (date offered by a bidder), and bidder offered conditions (price, article delivery date and so on).

[0152] The client reviews offered conditions such as the trading dates in the list XA1 of the screen XA, determines a successful bidder favorable to the client, enters, for example, the priority number of the successful bidder in the entry field XA2, and selects the OK button 62. In response, the server 21 notifies the client and the successful bidder of an accepted bid. If the client can view the list XA1 on the terminal 30A in this way, the client can select a partner who offers favorable conditions for any element such as the price other than the trading date, even if several bidders offer the same paying-in date, or the client can select a partner who may concede in the price or the article delivery date even if the trading date is slightly late. The list screen XA corresponds to a browsing screen.

(Goino, paragraphs [0151]-[0152])

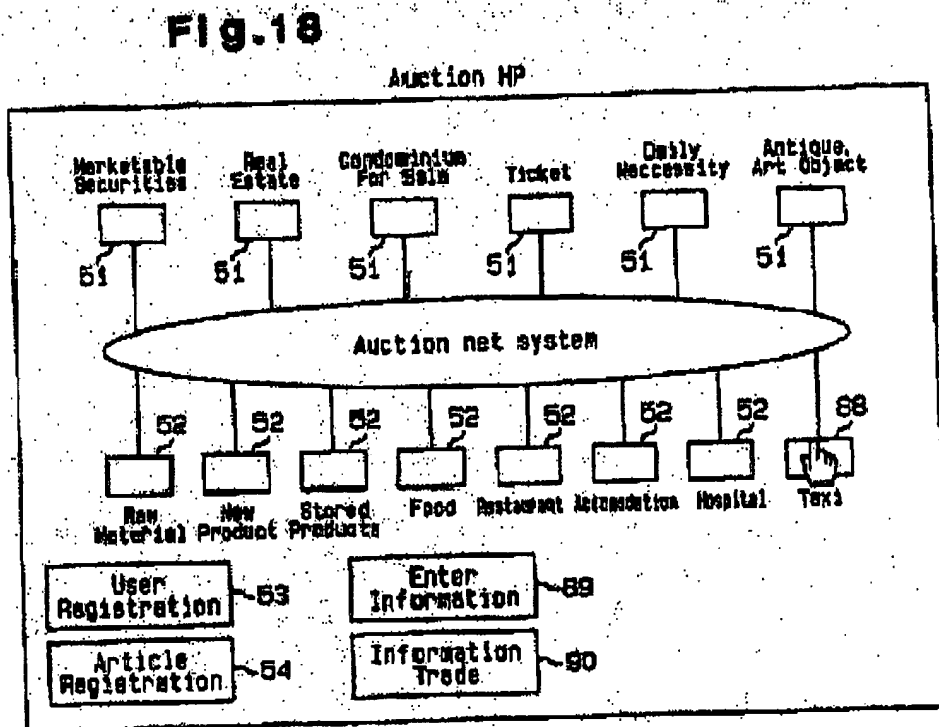
In Figure 14 and the related description, *Goino* describes a screen for a user to select a successful bidder. Nowhere, however do these paragraphs teach or suggest that each bid includes an estimated time to perform the service and the steps of obtaining route information from a route determination provider, obtaining historical travel data, estimating a time of travel, or adding an estimated time of travel to an estimated time of completion of the service, as recited in claim 1.

Fig. 17 (a)**Fig. 17 (b)****(Figures 17A and 17B)**

[0166] As illustrated in FIG. 17A, each of taxis 76 is equipped with a GPS (Global Positioning System) 78 which measures a position utilizing radio waves of GPS satellites, so that the taxi 76 exactly measures a current position thereof through the GPS 78, and transmits the position information from the transceiver 77 in the taxi 76 to the transceiver 75 in the taxi company. Accordingly, the personal computer 72 exactly perceives current positions of all taxis 76 belonging to the taxi company. Also, as illustrated in FIG. 17B, the portable telephone 74 held by a customer contains a GPS 79 so that it supports the positioning capabilities. Therefore, a current position of the customer who carries the portable telephone 74 is sequentially measured, as required, by the GPS 79 contained in the portable telephone 74.

(Goino, paragraph [0166])

In Figures 17A and 17B and the related description, *Goino* describes a taxi and a personal phone that contain a GPS unit for locating the position of the taxi and a user. Nowhere, however do these paragraphs teach or suggest that each bid includes an estimated time to perform the service and the steps of obtaining route information from a route determination provider, obtaining historical travel data, estimating a time of travel, or adding an estimated time of travel to an estimated time of completion of the service, as recited in claim 1.



(Figure 18)

[0171] As illustrated in FIG. 18, the auction HP is similarly provided with a large number of selection buttons 51 classified into respective articles and services for auction, and a large number of selection buttons 52 classified into respective articles for counter-auction. A person who wants to participate in a bid (bidder) selects a selection button 51 or 52 of a desired article classification. It should be noted that FIG. 18 illustrates only a portion of article and service classifications. The auction HP is also provided with a user registration button 53 and an article registration button 54. Selection of the button 53 or 54 results in the registration screen P (FIG. 4) or the registration screen Q (FIG. 5) displayed on the terminal 30, and data entered from the screen P or Q is transmitted to the server 21 to proceed with user registration or article/service registration. An article also includes information provision. The position auction also provides a business position auction (counter-auction) in which registered are dealers who provide a carrier such as a taxi which provides paid transportation services. For example, taxi companies may register themselves in this position auction as users to efficiently receive provision of customers through the position auction. While the taxi is given as an example in the second embodiment, the present invention may be applied to any mobile object (vehicle or the like) such as a collection/delivery car which is dispatched to a customer or a predetermined place near the customer for providing a service.

(Goino, paragraph [0171])

In Figure 18 and the related description, *Goino* describes a bidding home page where a bidder is able to select which auctions the bidder wants to participate in. Nowhere, however do these paragraphs teach or suggest that each bid includes an estimated time to perform the service and the steps of obtaining route information from a route determination provider, obtaining historical travel data, estimating a time of travel, or adding an estimated time of travel to an estimated time of completion of the service, as recited in claim 1.

Fig. 19

Taxi Allocation Screen F

The diagram illustrates the 'Taxi Allocation Screen F'. It features a list of labels on the left side, each corresponding to an input field or button on the right. The labels are: '<Taxi Allocation>', 'Taxi Taking Position', 'Character Entry', 'Communicate Features', 'Taxi Taking Time', 'Number Of Passengers', 'Destination', 'Rank', and 'ID Number'. The input fields are represented by rectangular boxes. The 'GPS' button is labeled 91. The 'Telephone Number' field is labeled F1. The 'Character Entry' field is labeled F2. The 'Communicate Features' field is labeled F3. The 'Taxi Taking Time' field is labeled F4. The 'Number Of Passengers' field is labeled F5. The 'Destination' field is labeled F6. The 'Rank' field is labeled 92. The 'ID Number' field is labeled F7. A 'Transmit' button is labeled 93.

(Figure 19)

[0172] Since the auction HP has a "taxi" button 88, a customer may select this button. Then, the customer enters required items on a taxi allocation screen F illustrated in FIG. 19 which appears subsequent to the auction button HP in response to the selection of the taxi button 88. Specifically, the screen F is provided with a GPS button 91 for specifying a place at which the customer wants to take a taxi; a telephone number entry field F1, and a character entry field F2. The screen F is also provided with entry fields F3 to F6 for entering customer feature communication, desired take time (within how many minutes), number of passengers, and destination; a rank button 92 for specifying a taxi rank (large, middle, small, rate rank, and so on); and an ID number entry field F7. Here, the

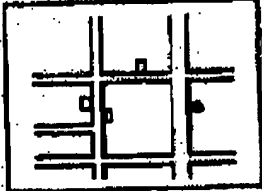
GPS button 91 on the screen F may be previously corresponded with the GPS 79 when using a portable telephone 74 which supports the GPS, so that GPS position data can be registered only by manipulating the button 91. As an alternative method of identifying a position, it is possible to enter a telephone number of the customer's residence, building or the like. The server 21 is connected to a system which identifies the address from the telephone number (telephone number search service company) so that the position can be identified provided that the telephone number is known. The character entry field F2 is filled with character information such as the address, place name, readily perceivable rendezvous place, or the like. The feature communication entry field F3 is filled with identifiable features of the customer himself. It should be noted that the taxi allocation screen F corresponds to a request screen.

(Goino, paragraph [0172])

In Figure 19 and the related description, *Goino* describes a screen where the customer may provide information on a taxi service that is requested by the customer, this information is relayed to a server. Nowhere, however do these paragraphs teach or suggest that each bid includes an estimated time to perform the service and the steps of obtaining route information from a route determination provider, obtaining historical travel data, estimating a time of travel, or adding an estimated time of travel to an estimated time of completion of the service, as recited in claim 1.

Fig.20

Auction Participation Screen 8

Position Of Customer	<input type="text"/>	G1	Position Of Customer 	
Number Of Persons	<input type="text"/>	G2		
Rank	<input type="text"/>	G3		
Destination	<input type="text"/>	G4		
Taxi Taking Time	<input type="text"/>	G5		
Position Of Taxi	<input type="text"/>	G7	Remaining Time <input type="text"/>	Auction Participation
Situation	<input type="text"/>	G8		

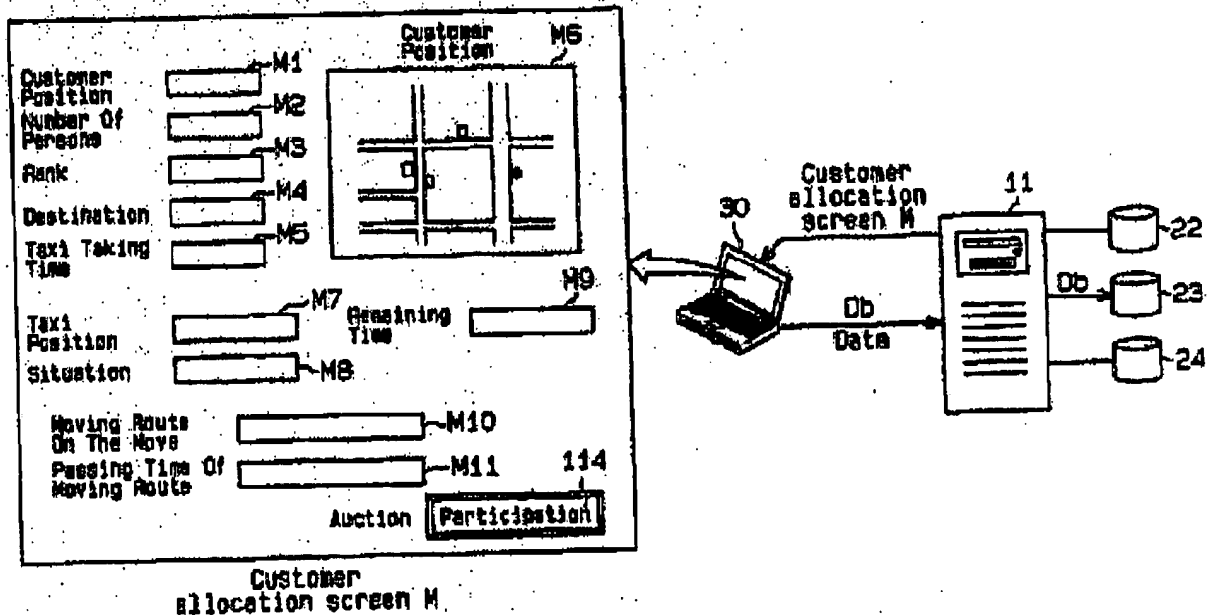
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(Figure 20)

[0175] The auction participation screen G illustrated in FIG. 20 is provided with display fields G1 to G5 for offering customer information such as the position of a customer (a place at which the customer wants to take a taxi); the number of passengers; a specified rank of taxi; destination; the time at which the customer wants to take a taxi; and so on. The auction participation screen G is also provided with a map display field G6 which displays a map around the place at which the customer is present (map information). The position at which the customer is present (the place at which the customer wants to take a taxi) is indicated on the map (a black circle on the map in FIG. 20), such that the position at which the customer is present can be visually confirmed in a specific manner on the map. The screen G is also provided with entry fields G7, G8 for entering "taxi position" and "situation". For participating in the auction, there is a time limit in order not to have kept the customer waiting for a taxi to the utmost, so that a display field G9 is also provided for showing a remaining time. For participating in the auction, each taxi company should have entered required data in the entry fields G7, G8 within a time limit and select a participation button 94. It should be noted that the auction participation screen G corresponds to a bid screen.

(Goino, paragraph [0175])

In Figure 20 and the related description, *Goino* describes the auction preparation screen for offering information to taxis so that they may bid on offering the taxi service. Nowhere, however do these paragraphs teach or suggest that each bid includes an estimated time to perform the service and the steps of obtaining route information from a route determination provider, obtaining historical travel data, estimating a time of travel, or adding an estimated time of travel to an estimated time of completion of the service, as recited in claim 1.

Fig.30

(Figure 30)

[0271] Now, explanation is given of the position auction of the form illustrated in FIG. 29 for bidding off a customer who takes a taxi 76 at the nearest position from a route along which the taxi is moving. While a variety of programs stored in the memory for the server 21 to conduct the on-the-move auction are basically similar to those used in the position auction, a customer allocation screen M illustrated in FIG. 30 is displayed in the on-the-move auction. Assume herein that customers have already reserved for a bid for allocation of a taxi.

(Goino, paragraph [0271])

In Figure 30 and the related description, *Goino* describes a screen that shows the allocation of a taxi to a customer. Nowhere, however do these paragraphs teach or suggest that each bid includes an estimated time to perform the service and the steps of obtaining route information from a route determination provider, obtaining historical travel data, estimating a time of travel, or adding an estimated time of travel to an estimated time of completion of the service, as recited in claim 1.

Thus, *Goino* teaches various auction methods and systems. In fact, *Goino* teaches particular auction methods in which the location of a taxi is used to determine a winner of an auction. However, *Goino* does not teach obtaining route information from a route information

provider or obtaining historical travel information from a historical database. While *Goino* does nominally mention a "custody history," a "professional history," and a "membership history," there is no mention whatsoever of historical travel information or a historical database in *Goino*. Therefore, *Goino* cannot possibly teach obtaining historical travel data from a historical database and calculating an estimated time of travel for each of the plurality of service providers based on the route information and the historical travel data, as alleged by the Examiner.

Furthermore, there is not so much as a suggestion in the *Vashistha* or *Goino* references to modify the references to include such features. The mere fact that a prior art reference can be readily modified does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Laskowski*, 871 F.2d 113, 10 U.S.P.Q.2d 1397 (Fed. Cir. 1989) and also see *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992) and *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1993). The Examiner may not merely state that the modification would have been obvious to one of ordinary skill in the art without pointing out in the prior art a suggestion of the desirability of the proposed modification.

In this case, no teaching or suggestion is present in *Vashistha* and *Goino*, either alone or in combination, to teach or suggest the needed modifications. That is, no teaching or suggestion is present in either reference that a problem exists for which electronically determining an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers, is a solution. To the contrary, *Vashistha* only teaches tracing the progress of a project after it has been procured and after it is being completed. *Goino* teaches particular auction methods in which the location of a taxi is used to determine a winner of an auction. Neither reference recognizes a need to perform the features, or similar features, as recited in claims 1, 12, and 23.

Moreover, neither *Vashistha* nor *Goino* teaches or suggests the desirability of incorporating the subject matter of the other when these cited references are considered as a whole by one of ordinary skill in the art. That is, there is no motivation offered in either reference for the alleged combination. The Examiner alleges that the motivation for the combination is "its first object is to provide an auction method, an auction system and a server which can satisfy requirements other than the price for a client...to provide an auction method, an auction system and a server that permit a client who looks for a partner, with whom an article is sold or purchased, to find a trading partner who meets desired conditions in accordance with

the client's circumstances with respect to trading dates such as the article delivery date, the payment deadline...to provide an auction method, an auction system and a server that can achieve the first object as well as meet requirements with respect to the position of a client." As discussed above, *Vashistha* is directed to tracing the progress of a project after it has been procured and after it is being completed and *Goino* is directed to locating a taxi to determine a winner of an auction. Thus, the only teaching or suggestion to even attempt the alleged combination is based on a prior knowledge of Appellant's claimed invention thereby constituting impermissible hindsight reconstruction using Appellant's own disclosure as a guide..

One of ordinary skill in the art, being presented only with *Vashistha* and *Goino*, and without having a prior knowledge of Appellant's claimed invention, would not have found it obvious to combine and modify *Vashistha* and *Goino* to arrive at Appellant's claimed invention. To the contrary, even if one were somehow motivated to combine *Vashistha* and *Goino*, and it were somehow possible to combine the two systems, the result would not be the invention, as recited in claims 1, 12, and 23. The result of combining *Vashistha* and *Goino* would merely result in determining the location of a taxi of a winner of an auction and tracing the progress of a project after it has been procured and after it is being completed.

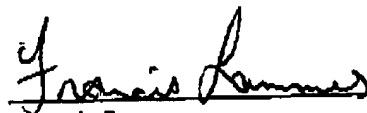
Thus, *Vashistha* and *Goino*, taken alone or in combination, fail to teach or suggest all of the features in independent claims 1, 12, and 23. At least by virtue of their dependency on claims 1, 12, and 23, the specific features of claims 2-5, 8-11, 13-16, 29-22, 24-27, and 30-33 are not taught or suggested by *Vashistha* and *Goino*, either alone or in combination. Accordingly, Appellants respectfully request that the rejection of claims 1-5, 8-16, 19-27, and 30-33 under 35 U.S.C. § 103 not be sustained.

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CONCLUSION

In view of the above, Appellants respectfully submit that claims 1-5, 8-16, 19-27, and 30-33 are allowable over the cited prior art and that the application is in condition for allowance. Accordingly, Appellants respectfully request the Board of Patent Appeals and Interferences to not sustain the rejections set forth in the Final Office Action.



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CLAIMS APPENDIX

The text of the claims involved in the appeal are:

1. A method of providing service provider information to a client device in a distributed computer system, comprising:
 - obtaining bids from a plurality of service providers for providing a service;
 - responsive to obtaining the bids, obtaining route information from a route determination provider based on a first location associated with the client device and a second location associated with a corresponding service provider;
 - obtaining historical travel data from a historical database;
 - calculating an estimated time of travel for each of the plurality of service providers based on the route information and the historical travel data;
 - electronically determining an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers; and
 - providing the bids from the plurality of service providers and the estimated time of completion for the service for each of the plurality of service providers to the client device.
2. The method of claim 1, further comprising:
 - determining a service provider rating for each of the plurality of service providers; and
 - providing the service provider rating for each of the plurality of service providers to the client device.

3. The method of claim 1, further comprising:
receiving a selection of a selected service provider from the plurality of service providers and a command to place an order for the service with the selected service provider; and
placing an order with the selected service provider.
4. The method of claim 1, wherein the each bid includes a price for providing the service.
5. The method of claim 4, wherein the each bid further includes an estimated time to perform the service at the second location.
8. The method of claim 5, wherein determining an estimated time of completion for the service for each of the plurality of service providers comprises adding the estimated time of travel to the estimated time to perform the service at the second location.
9. The method of claim 1, wherein the method is implemented in an electronic marketplace provider.
10. The method of claim 9, wherein the electronic marketplace provider is present on a proxy server.
11. The method of claim 9, wherein the electronic marketplace provider is present on the client device.
12. An apparatus for providing service provider information to a client device in a distributed computer system, comprising:
a first interface which obtains bids from a plurality of service providers for providing a service;

a processor which, responsive to obtaining the bids, obtains route information from a route determination provider based on a first location associated with the client device and a second location associated with a corresponding service provider, obtains historical travel data from a historical database, calculates an estimated time of travel for each of the plurality of service providers based on the route information and the historical travel data, and determines an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers; and

a second interface which provides the bids from the plurality of service providers and the estimated time of completion for the service for each of the plurality of service providers to the client device.

13. The apparatus of claim 12, wherein the processor determines a service provider rating for each of the plurality of service providers and the second interface provides the service provider rating for each of the plurality of service providers to the client device.

14. The apparatus of claim 12, further comprising:

a third interface which receives a selection of a selected service provider from the plurality of service providers and a command to place an order for the service with the selected service provider; and
a fourth interface which places an order with the selected service provider.

15. The apparatus of claim 12, wherein each bid includes a price for providing the service.

16. The apparatus of claim 15, wherein each bid further includes an estimated time to perform the service at the second location.

19. The apparatus of claim 16, wherein the processor adds the estimated time of travel to the estimated time to perform the service at the second location.
20. The apparatus of claim 12, wherein the apparatus is a part of an electronic marketplace provider.
21. The apparatus of claim 20, wherein the electronic marketplace provider is present on a proxy server.
22. The apparatus of claim 20, wherein the electronic marketplace provider is present on the client device.
23. A computer program product in a computer readable medium for providing service provider information to a service consumer in a distributed computer system, comprising:
 - instructions for obtaining bids from a plurality of service providers for providing a service;
 - instructions, responsive to obtaining the bids, for obtaining route information from a route determination provider based on a first location associated with the client device and a second location associated with a corresponding service provider;
 - instructions for obtaining historical travel data from a historical database;
 - instructions for calculating an estimated time of travel for each of the plurality of service providers based on the route information and the historical travel data;
 - instructions for determining an estimated time of completion for the service for each of the plurality of service providers based on the calculated estimated time of travel for each of the plurality of service providers; and
 - instructions for providing the bids from the plurality of service providers and the estimated time of completion for the service for each of the plurality of service providers to a service consumer.

24. The computer program product of claim 23, further comprising:
instructions for determining a service provider rating for each of the plurality of service providers; and
instructions for providing the service provider rating for each of the plurality of service providers to the service consumer.
25. The computer program product of claim 23, further comprising:
instructions for receiving a selection of a selected service provider from the plurality of service providers and a command to place an order for the service with the selected service provider; and
instructions for placing an order with the selected service provider.
26. The computer program product of claim 23, wherein each bid includes a price for providing the service.
27. The computer program product of claim 26, wherein each bid further includes an estimated time to perform the service at the second location.
30. The computer program product of claim 27, wherein the instructions for determining an estimated time of completion for the service for each of the plurality of service providers comprises instructions for adding the estimated time of travel to the estimated time to perform the service at the second location.
31. The computer program product of claim 23, wherein the computer program product is executed in an electronic marketplace provider.

32. The computer program product of claim 31, wherein the electronic marketplace provider is present on a proxy server.

33. The computer program product of claim 31, wherein the electronic marketplace provider is present on the client device.

EVIDENCE APPENDIX

There is no evidence to be presented.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.

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